

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

James A. Gregg,

Case No. 21-cv-2767 (WMW/TNL)

Plaintiff,

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

v.

Daniel Basile,

Defendant.

This matter is before the Court on the January 11, 2023 Report and Recommendation (R&R) of United States Magistrate Judge Tony N. Leung. (Dkt. 38.) Because no objections have been filed, this Court reviews the R&R for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). Having reviewed the R&R, the Court finds no clear error.

Only one matter requires further comment. The R&R does not specify whether dismissal is recommended with or without prejudice. As explained in the R&R, however, the allegations that formed the nucleus of Gregg's pleading have already been dismissed once with prejudice. *See Gregg v. Kallis*, No. 21-cv-1180, 2022 WL 484965, at *1 (D. Minn. Feb. 16, 2022). This litigation is therefore barred by the doctrine of *res judicata*. A dismissal on the basis of *res judicata* is typically effected with prejudice, as the claims barred by that doctrine are already precluded from further litigation due to a prior judgment rendered on the merits of those claims. *See, e.g., Welch v. CitiMortgage, Inc.*, No. 13-cv-

1388 (JRT/JJK), 2014 WL 1048522, at *8 n.2 (D. Minn. Mar. 18, 2014). This matter will therefore be dismissed with prejudice.

ORDER

Based on the R&R and all the files, records and proceedings herein, **IT IS HEREBY ORDERED:**

1. The January 11, 2023 Report and Recommendation, (Dkt. 38), is **ADOPTED.**

2. Defendant Daniel Basile's motion to dismiss, (Dkt. 29), is **GRANTED.**

3. This matter is **DISMISSED WITH PREJUDICE.**

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 6, 2023

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge